

recording and the physical delivery of the deed are but prima facie evidence of delivery, the presumption of delivery arising therefrom is so strong and persuasive that only clear and satisfactory evidence will overcome such presumption. *Huxley v. Liess et al.*, 285 N. W. 216; *Taylor v. O'Barr*, 6 So. 2d. 414; *Bellin v. Bloom*, 28 N. E. (2d) 53.

There is nothing in your letter or the enclosures showing any disposition on the part of the Government or the grantor to invalidate or to set aside the deed and no legal basis is shown for setting aside the transaction or for relieving the Government from payment of any part of the purchase price.

Accordingly I have to advise that payment on the voucher in the amount of \$2,000, the amount claimed thereon, is authorized if otherwise correct.

The papers are returned herewith.

(B-37388)

ADVANCE PAYMENTS—NEWSPAPERS, MAGAZINES, AND OTHER PERIODICALS; SUBSCRIPTION EXCEEDING ONE YEAR

The act of March 4, 1909, authorizing the Secretary of Agriculture to pay in advance for subscriptions to any publications, and the act of June 12, 1930, extending a similar authorization to other departments and agencies of the Government with respect to subscriptions to newspapers, magazines, and other periodicals, do not specifically limit advance payment for subscriptions to a one-year period, and, therefore, where it is advantageous for the purpose of economy or otherwise to subscribe to newspapers, magazines, or other periodicals for longer periods, payment therefor may be made from current appropriations otherwise available for such purpose.

Comptroller General Warren to the Secretary of Agriculture, November 2, 1943:

I have your letter of September 29, 1943, as follows:

The provision in the act of March 4, 1915, 38 Stat. 1049, permitting the payment for subscriptions to periodicals in advance has been construed by the Comptroller of the Treasury (22 Comp. Dec. 586) as having been enacted to overcome, so far as subscriptions to periodicals are concerned, the prohibition against the advance payment of public money and against payments in excess of the value of the services rendered or articles delivered. However, the Comptroller General has in the past ruled that a subscription to a periodical may be charged against the proper appropriation current at the time the order for subscription is placed, even though some deliveries will of necessity be made during the following fiscal year, provided, that the term of the subscription will not extend beyond one year.

The librarian of this Department is unable to take full advantage of the economies often available to subscribers of periodicals when subscriptions are entered for periods in excess of one year. Lower rates effecting savings of 20% and more as compared with yearly subscriptions, are offered when periodicals are ordered two or three years in advance. As further inducement for the longer term subscriptions, valuable books are frequently offered as premiums. At times it becomes necessary to spend public funds to obtain these books which could otherwise be acquired at no cost to the Government.

In practice it has proven more economical and efficient to place all subscriptions on a calendar year basis. To do so frequently requires a subscription for a short term, the period between the date of subscription and the end of the year, followed by a subscription for a whole year. This presents difficulties in that some publishers will not accept subscriptions for less than one year, and in the cases where short term subscriptions are accepted, followed by subscriptions for the

full calendar year, additional time and expense is involved in the duplicated clerical effort of taking bids and paying bills.

It would seem, therefore, to be in the interest of economy to reduce, if possible, the number of transactions, particularly when the amounts involved are small.

In the event that it became advisable to discontinue any subscription, the possibility of loss to the Government would appear to be no greater in a long term subscription than in a subscription for one year or less, as a refund for the unused portion of the subscription could be claimed as easily under a longer term subscription as under a short term subscription.

Periodicals and publications purchased for use in the Department of Agriculture Library, are of current interest and for current use. However, they are accumulated and filed thereby becoming a permanent part of the library. They are available for, and subject to, frequent reference, long after their dates of issue and must therefore be considered as adding to the permanent facilities of the library, rather than as of only current or temporary value. Therefore, it is entirely reasonable to consider such subscriptions in the same light as the purchase of any other permanent addition to the library. From the very nature of the facility it is one which can only be delivered at regular intervals over a considerable period of time following the date of subscription, but it does not seem reasonable that because of this, the librarian should not be permitted to take full advantage of the economies offered by long term subscriptions.

In 2 Comp. Gen. 451, it was held that a subscription to a periodical necessitating some deliveries in the following year, might be charged against the current year's appropriation. The language of the Acts of March 4, 1909, 35 Stat. 1054; March 4, 1915, Sec. 5, 38 Stat. 1049; and June 12, 1930, 46 Stat. 580, permitting advance payment for subscriptions to magazines, newspapers and other periodicals, does not limit advance payment for said subscriptions to one year. It does not seem reasonable to suppose that it was intended that any limitation should be imposed which would preclude the Government from taking advantage of economies available to other long term subscribers. It is requested, therefore, that the librarian of this Department be permitted to enter subscriptions, up to five years in advance, for magazines, newspapers, and other periodicals, payable out of the proper appropriation current at the time of subscription.

Section 3648 Revised Statutes provides:

No advance of public money shall be made in any case whatever. And in all cases of contracts for the performance of any service, or the delivery of articles of any description, for the use of the United States, payment shall not exceed the value of the service rendered, or of the articles delivered previously to such payment.

However, the pertinent laws relating to the payment for subscriptions to the periodicals provide as follows:

* * * That hereafter section thirty-six hundred and forty-eight of the Revised Statutes shall not apply to the subscriptions for publications for the Department of Agriculture, and the Secretary of Agriculture is authorized to pay in advance for any publications for the use of this department. (Act of March 4, 1909, 35 Stat. 1054).

That hereafter subscriptions to periodicals, which have been certified in writing by the respective heads of the executive departments or other Government establishments to be required for official use, may be paid in advance from appropriations available therefor. (Section 5 of the act of March 4, 1915, 38 Stat. 1049.)

That subscription charges for newspapers, magazines, and other periodicals for official use of any office under the Government of the United States or the municipal government of the District of Columbia may be paid in advance from appropriations available therefor, notwithstanding the provisions of section 3648 of the Revised Statutes (United States Code, title 31, section 529). (Act of June 12, 1930, 46 Stat. 580).

It was held in decision of this office, 3 Comp. Gen. 562, quoting from the syllabus:

The act of March 4, 1909, 35 Stat., 1054, authorizing the Secretary of Agriculture to pay in advance for any publications for the use of his department, is not repealed or superseded by the act of March 4, 1915, 38 Stat., 1049, per-

mitting advance payments for periodicals when certified in writing by the respective heads of the executive departments, or other Government establishments, to be required for official use.

In decision 10 Comp. Gen. 32 it was held that the act of June 12, 1930, *supra*, superseded the prior act of March 4, 1915. However, the act of March 4, 1909, authorizing payments applicable to the purchase of *all* publications by the Department of Agriculture, remains in full force although, to the extent that advance payments are permitted, there is no substantial difference between that act and the act of June 12, 1930.

The accounting officers consistently have held that the cost of publications for one year or less may be charged to the appropriation current when the subscription was ordered, notwithstanding that it may cover deliveries extending into the subsequent year, but up to this time this has not been extended to authorize payment for more than one year's subscription from the same fiscal year appropriation. 2 Comp. Dec. 474; 11 *id.* 227; 22 *id.* 534; 2 Comp. Gen. 451; B-23155, January 24, 1942.

However, as stated in your letter, there is nothing in the respective acts of March 4, 1909, March 4, 1915, and June 12, 1930—which were enacted for the purpose of overcoming the provisions of section 3648 of the Revised Statutes against making any advance payments—specifically limiting subscriptions to one year. Said acts, respectively, contain authority “to pay in advance for any publications” and provide that “subscriptions * * * may be paid in advance”, and it may be presumed the Congress intended to authorize subscriptions for such periods as commonly are offered to the public. While one year is the usual minimum period for subscriptions to periodicals, it is not the maximum; and it is understood that it has become common practice to offer subscriptions of from two to five years at reduced prices and that numerous subscriptions now are ordered by the public on such basis.

Taking the foregoing into consideration it may be held that the authority given the Department of Agriculture by the act of March 4, 1909, to pay in advance for subscriptions to any publications, or that given other departments and agencies by the act of June 12, 1930, to pay in advance for subscriptions to newspapers, magazines, and other periodicals for official use is not restricted to the payment of subscriptions for one-year periods. Consequently, where it is advantageous for the purpose of economy or otherwise to subscribe for longer periods, payment for such subscriptions may be made from such current appropriations as may be otherwise available therefor. Any prior decisions of this office holding to the contrary will not be regarded as controlling hereafter.

(B-37793)

TRAVELING EXPENSES—FARES—ROUND-TRIP TICKETS

Where it is shown that due to emergency war conditions an official traveler was unable to obtain advance reservations on trains and was required to secure one-way tickets for each step of the journey, it may be concluded that the securing of a round-trip ticket was not “practicable” within the meaning of paragraph 16 of the Standardized Government Travel Regulations, requiring travelers to secure round-trip tickets whenever practicable and economical.

Comptroller General Warren to C. P. Knapp, Department of the Interior, November 2, 1943:

Reference is made to your letter of October 16, 1943, as follows:

The attached voucher for \$98.15, in favor of H. M. Huffman, Principal Physical Chemist of the Bureau of Mines Experiment Station, Bartlesville, Oklahoma, has been presented to this office for administrative examination and certification.

Mr. Huffman traveled from Bartlesville, Oklahoma, to Chicago, Illinois, Detroit, Michigan, Washington, D. C., Pittsburgh, Pennsylvania, Chicago, Illinois, and return to Bartlesville, Oklahoma, issuing Government transportation requests for one-way tickets for the various steps of the journey instead of purchasing round-trip tickets, whenever practicable and economical, as required by Paragraph 16 of the Standardized Government Travel Regulations. He furnishes the following justification for the purchase of one-way tickets for the various steps of the journey:

“Due to the fact that I was unable to obtain advance reservations, the local ticket agent advised the purchase of one-way tickets. At each step in the travel it was necessary to take whatever reservations that could be obtained for the next step of the journey. Since it was impossible to tell which railroad the journey would be made on, it seemed advisable to make the trip on one-way tickets.”

A ruling is requested as to whether administrative approval and certification may be made of the voucher in the amount claimed.

While you did not sign your letter in the capacity of authorized certifying officer, it is understood that you officially occupy such status; hence, your letter will be regarded as a request made in that capacity for decision pursuant to the provisions of section 3 of the act of December 29, 1941, 55 Stat. 876, which grant to certifying officers “the right to apply for and obtain a decision by the Comptroller General on any question of law involved in a payment on any vouchers presented to them for certification.”

Paragraph 16 of the Government Travel Regulations provides:

Through tickets, excursion tickets, reduced rate round-trip or party tickets should be secured whenever practicable and economical.

In view of the explanation furnished by the traveler regarding the difficulty of making advance reservations on trains—a condition which is a matter of common knowledge at this time, arising from the emergency war conditions—it may be concluded that it was not “practicable” within the purview of the regulations, *supra*, to have obtained round-trip tickets in respect of the involved travel. Accordingly, so far as the question relates to the matter of the purchase of one-way tickets for the lowest first-class accommodations instead of round-trip tickets, the voucher, if otherwise correct and proper, may be certified for payment.

The voucher is returned herewith.